

NEW APPLICATION



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ARIZONA CORPORATION COMMISSION  
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Arizona Corporation Commission  
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IN THE MATTER OF THE APPLICATION )  
OF MCLEOD TELECOMMUNICATIONS ) DOCKET NO. T-03267A-14-0124  
SERVICES, LLC FOR RECISSION OF THE )  
BOND REQUIREMENT CONTAINED IN )  
ARIZONA CORPORATION COMMISSION )  
DECISION NO 64657. )  
)  
)  
)

**APPLICATION**

McLeodUSA Telecommunications Services, LLC requests rescission of the bond requirement contained in Arizona Corporation Commission ("Commission") Decision 64657.

**BACKGROUND**

McLeodUSA is an Iowa limited liability company and a wholly owned subsidiary of Windstream Corporation. In this Application, McLeodUSA is referred to as "Windstream" or "Applicant." Windstream provides integrated communications services, including local services, in 48 states. Applicant was certified as a reseller of telecommunications services in Arizona on

July 15, 1998 (Decision 68001) and was certified to provide facilities-based local exchange and exchange access telecommunications services in Arizona on June 9, 2000 (Decision 62627).

When Windstream was certified by the Commission as a reseller in 1998 and as a facilities based provider in 2000, no bond was required by the Commission. Over the next few years, Windstream operated with no bond and no significant consumer issues or inquiries by the Commission. In 2002, the Commission approved Windstream's request to encumber its Arizona assets as a part of a financing involving its ultimate parent company. In the order approving the financing (Decision 64657), the Commission required Windstream to obtain and submit to the Commission a \$600,000 performance bond to cover customer advances, deposits and prepayments. Windstream has renewed and submitted to the Commission Business office the \$600,000 bond annually for the past eleven years (2002-2013).

The bond Windstream provided most recently to the Commission will expire May 15, 2014. Windstream seeks expedited review of this Application to avoid another annual renewal. Alternatively, Applicant requests that Staff recommend elimination of the bond requirement retroactive to May 1, 2014, in the event the recommended order is considered by the Commission after the May 13, 2014 Open Meeting.

### **ANALYSIS**

"In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers, or order that such advances or deposits be held in escrow or trust." A.A.C. R14-2-1105(D). Windstream is subject to the Arizona Competitive Telecommunications Services Rules, A.A.C. R14-2-1101-1115, and must comply with all rules applicable to the provision of intrastate telecommunications services under

the terms of its certifications. Decision No. 68001, p. 2, para. 9(d) and Decision No. 62627 p. 3 para. 14(l). While the Commission may require a performance bond as a condition of certification, for the reasons set forth below continuing this requirement for Windstream, an established competitive telecommunications company, is unnecessary and costly.

### **1. Excellent Compliance**

Windstream has been a certified carrier in Arizona since 1998. Through-out this period Windstream has complied with the requirements of its certification, including filing annual reports, paying annual assessments for funding the ACC, RUCO (A.R.S. §40-401; §40-401.01) and Arizona universal service. Any Arizona customer complaints against Windstream have been resolved expeditiously and closed without formal litigation. Windstream has a physical presence in the State and is available to respond in a timely and responsive manner to any questions or concerns regarding customer service.

The bond Windstream has on file with the Commission has never been drawn upon or requested. Obtaining and maintaining this bond creates a significant expense for Windstream and will continue to do so. Moreover, purchasing the bond diverts monies that Windstream could use to grow its network or improve its systems.

### **2. The Bond Requirement Is Not Necessary or Reasonable.**

The Commission “*may* require . . . the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers.” A.A.C. R14-2-1105(D) (*emphasis added*). This rule was invoked by the Commission, as early as 2000, to protect consumers in the event a telecommunications carrier declared bankruptcy or abandoned service. *See, e.g.,* Decision No. 62751 (2000) (*Eschelon Telecom of Arizona CC&N Application*). At that time, many providers were new to Arizona and

reflecting an appropriate reaction to changes in the competitive telecom market. Staff has recommended a "case by case" analysis for assessing the need for a bond. This makes sense. The Commission retains full authority to impose a bond if Staff is concerned about a company's managerial or technical ability to provide service in Arizona. Companies like Windstream, however, that have been providing service for years, show no history of customer complaints or problems, and have demonstrated their technical and managerial expertise to provide service, should not be required to post a bond.

#### **4. Bond Documents**

If this application is approved, Windstream requests that the bond documents be returned to the following Windstream representative:

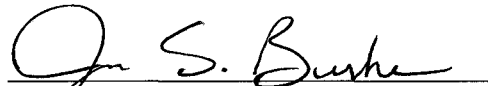
Mr. Mark Bennage  
Windstream Corporation  
4001 N. Rodney Parham Drive  
Little Rock, AR 72212

#### **CONCLUSION**

For the foregoing reasons, Windstream respectfully requests an order cancelling the bond requirement in Decision No 64657.

RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of April 2014.

By:



Joan S. Burke, 013687

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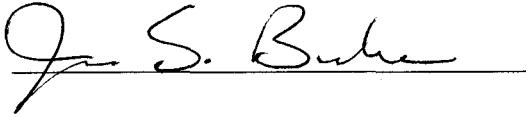
[Joan@jsburkelaw.com](mailto:Joan@jsburkelaw.com)

Electronic Service Preferred (ESP)

Attorney for **Windstream Corporation**

**ORIGINAL** and thirteen (13) copies of the foregoing  
filed this 10<sup>th</sup> day of April 2014 with:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

A handwritten signature in cursive script, appearing to read "J. S. Baker", is written over a horizontal line.

4843-6505-2954, v. 1